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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

24 KRISTINA KERLUS, an individual;
25 Plaintiff,
26 vs.
27 DR. JENNIFER CORNEAL, in her
28 individual capacity; A. SANTOS, in her
individual capacity; CITY OF LAS VEGAS,
a municipal corporation; COUNTY OF
CLARK, a municipal corporation; LAS
VEGAS METROPOLITAN POLICE
DEPARTMENT; jointly and severally,
Defendants.

Case No. 2:24-cv-02352

PLAINTIFF'S MOTION FOR LEAVE
TO FILE SECOND AMENDED
COMPLAINT

Pursuant to Federal Rules of Civil Procedure 15(a)(2), Plaintiff Kristina Kerlus, Plaintiff Kristina Kerlus, by and through her undersigned counsel, moves this Honorable Court for Leave to File her Second Amended Complaint. Plaintiff states as follows:

1 Plaintiff's claims in this case arise from her malicious prosecution related to the death of
2 her infant son in 2018. ECF No. 1. The initial Complaint in this case was filed on December 17,
3 2024 claiming, pursuant to 42 U.S.C. § 1983, violations of Plaintiff's rights pursuant to the
4 Fourteenth Amendment of the United State Constitution to be afforded equal protection and due
5 process, and the Fourth Amendment of the United States Constitution to be free from malicious
6 prosecution by Defendant's Corneal and Santos. ECF No. 1.

7 The First Amended Complaint in this case was filed on December 19, 2024, asserting the
8 same claims but adding additional parties. ECF No. 7. The initial Complaint and First Amended
9 Complaint was filed by Santos Law and Muller Law Firm without the knowledge or authorization
10 of Plaintiff. ECF No. 9, pp. 2-3. Unretained counsel (Santos and Mueller) initiated this litigation
11 without the knowledge or authorization of the Plaintiff. ECF No. 9. It was unclear that the
12 undersigned counsel did in fact represent Plaintiff until March of 2025 leaving this counsel with
13 little room for error to comply with the established parameters set by the Federal Rules of
14 Procedure and this Court. Following the filing of the Complaint and First Amended Complaint,
15 Plaintiff retained the Romanucci & Blandin law firm ("retained counsel"), as well as undersigned
16 counsel, to represent her interests.

17 On March 17, 2025, the Court issued a Notice of intent to dismiss pursuant to FRCP 4(m),
18 setting a deadline for Plaintiff to provide proof of service on or before April 16, 2025. Retained
19 counsel first appeared in this case and designated undersigned counsel as its local counsel on
20 March 19, 2025. Shortly after becoming associated as local counsel, undersigned counsel worked
21 quickly to effect service on Defendants before the April 16, 2025 deadline. Because Plaintiff and
22 retained counsel were caught off guard by the filing of pleadings in this case, Plaintiff moved to
23 extend the deadline for service of the Amended Complaint. ECF No. 20.

24 Due to the confusion regarding Plaintiff's representation at the beginning of this case, the
25 Court found good cause to extend the time for service. ECF No. 38. Unfortunately, in the rush to
26 timely complete service before the court's initial deadline of April 16, 2025, undersigned counsel
27 neglected to file a proposed summons for Defendant Las Vegas Metropolitan Police Department
28

1 ("LVMPD"). Due to this oversight, Defendant LVMPD was not served until May 14, 2025. On
 2 information and belief, Defendant LVMPD likely had actual notice of the First Amended
 3 Complaint before May 14, 2025, as service had been effected on Defendant Clark County and
 4 Defendant Santos, an LVMPD employee. On May 27, 2025 Defendant LVMPD filed a Motion
 5 to Dismiss in response to Plaintiff's First Amended Complaint, seeking dismissal on various
 6 ground under FRCP 12(b)(5) and 12(b)(6).

7 In order to promote judicial efficiency Plaintiff respectfully requests this Court grant her
 8 leave to file a Second Amended Complaint. This time, with her retained counsel. The court should
 9 freely give leave when justice so requires. Fed. R. Civ. P. 15(a)(2). ““Dismissal without leave to
 10 amend is improper unless it is clear, upon de novo review, that the complaint could not be saved
 11 by any amendment.”” Moss 572 F.3d at 972. (quoting Gompper v. VISX, Inc., 298 F.3d 893, 898
 12 (9th Cir.2002). With the initiation of this lawsuit being done without Plaintiff's consent and not
 13 from her undersigned counsel, Plaintiff believes she deserves a chance to supplement her claims
 14 in her amended complaint. Plaintiff's request is made in good faith and not for the purpose of
 15 delay. No party will be prejudiced by permitting the amendment at this stage.

16 Plaintiff respectfully requests that this Court grant leave to file a Second Amended
 17 Complaint. The extraordinary circumstances presented in this matter justify amendment at this
 18 stage. Granting leave will further the interests of judicial efficiency and fairness.

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 20 Respectfully submitted,

21 ROMANUCCI & BLANDIN

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 23 */s/ Patrick J. Driscoll*
 24 Patrick J. Driscoll (*pro hac vice*)

25 Attorney for Plaintiff

26 Dated: July 23, 2025

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, the undersigned hereby certifies that on this day, July 23, 2025, a copy of the foregoing document was filed with the Court and a copy served upon all respective parties and their counsel through the Court's electronic filing system.

s/Patrick J. Driscoll
Patrick J. Driscoll
Attorney for Plaintiff

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